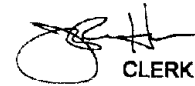


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

JUL 15 2008


CLERK

TERRY DEAN SIMUNEK,)	CIV 08-4066-RHB
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
BOB DOOLEY, Warden,)	
BECC COYLE, Unit Manager; LISA)	
REEVES, Nurse; MICHELLE GIELSKI,)	
Nurse; MELLISA JOHNSON, Nurse;)	
SGT. BRETT KRENZKE; and)	
DOUG WEBER, Warden,)	
)	
Defendants.)	

Plaintiff commenced this action pursuant to 42 U.S.C. § 1983, alleging that defendants violated his constitutional right to medical care.

A. Complaint

Under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), a case may be dismissed if it is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. The Court is required to screen each prisoner case before allowing it to proceed. When reviewing a complaint for such an inadequacy, the Court must assume that "the factual allegations in the complaint are true." Neitzke, 490 U.S. at 326, 109 S. Ct. at 1832.

Plaintiff alleges that his rights were violated when defendants confiscated his "medically ordered boots." In reviewing the allegations, the Court finds it necessary to

order plaintiff to provide an amended complaint detailing the specific facts showing the personal involvement of each defendant named. Upon receipt of that amended document, the Court shall perform the screening as required by statute.

B. In Forma Pauperis

Plaintiff also moves to proceed in forma pauperis. Plaintiff's prisoner trust account report reflects that his current balance is \$0.13. His average monthly deposits equal \$30.35 and his average monthly balance equals \$3.47. Under the Prison Litigation Reform Act, plaintiff must pay 20 percent of the greater of the average monthly deposits to his prisoner account or the average monthly balance of the account. See 28 U.S.C. § 1915(b)(1). Plaintiff, therefore, must pay an initial partial filing fee of \$6.07 (20% of \$30.35). Accordingly, it is hereby

ORDERED plaintiff shall file an amended complaint in accordance with this Order on or before August 22, 2008. Failure to do so will result in dismissal of this action for failure to prosecute.

IT IS FURTHER ORDERED that plaintiff's motion to proceed in forma pauperis (Docket #2) is granted.

IT IS FURTHER ORDERED that plaintiff shall make an initial partial filing fee of \$6.07 on or before September 2, 2008.

IT IS FURTHER ORDERED that the institution having custody of the plaintiff is hereby directed that whenever the amount in plaintiff's trust account exceeds \$10.00, monthly payments that equal 20% of the funds credited the preceding month to the


plaintiff's trust account shall be forwarded to the U.S. District Court Clerk's Office pursuant to 28 U.S.C. § 1915(b)(2), until the filing fee is paid in full.

IT IS FURTHER ORDERED that plaintiff remains obligated to pay the filing fee in its entirety.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel (Docket #11) is denied.

Dated this 14th day of July, 2008.

BY THE COURT:


RICHARD H. BATTEY
UNITED STATES DISTRICT JUDGE